

1 KEVIN V. RYAN (CSBN 118321)  
2 United States Attorney

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,	)	No.
12 Plaintiff,	)	
13 v.	)	VIOLETIONS: 15 U.S.C. § 78ff –
14	)	Securities Fraud; 18 U.S.C. §§ 1343 and
15 OLIVER HILSENATH and	)	1346 – Wire Fraud; 18 U.S.C. § 2 –
16 DAVID SCOTT KLARMAN,	)	Aiding and Abetting
Defendants.	)	
	)	SAN FRANCISCO VENUE

17  
18 INDICTMENT

19 The Grand Jury charges:

20 BACKGROUND

21 A. The Company

22 1. U.S. Wireless Corporation (“the Company” or “USWC”) was a provider of  
23 location-based information and services, headquartered in San Ramon, California. From  
24 October 22, 1996, through May 29, 2001, USWC was traded on the NASDAQ stock  
25 exchange. USWC filed a Chapter 11 bankruptcy petition on August 29, 2001, and sold  
26 substantially all of its assets to Trafficmaster USA, Inc. on December 10, 2001.

27 B. The Defendants

28 2. Defendant OLIVER HILSENATH served as President, Chief Executive

1 Officer (CEO), and Director of USWC beginning in July 1996. In March 2000,  
2 HILSENATH stepped down as President and was appointed Chairman of the Board of  
3 Directors. He maintained the CEO, Chairman, and Director titles until his termination on  
4 May 26, 2001, as a result of an internal fraud investigation by USWC.

5 3. Defendant DAVID KLARMAN served as General Counsel and Secretary of  
6 USWC from September 1996 and Vice President from December 1997, until his  
7 resignation on March 6, 2001, also as a result of USWC's investigation.

8 C. The Scheme to Defraud

9 4. Between in or about March 1996 and March 2001, defendants HILSENATH,  
10 KLARMAN, and others devised and implemented a scheme to defraud USWC and its  
11 shareholders, to deprive them of their intangible right to honest services, and to obtain  
12 large amounts of money and property by means of false and fraudulent pretenses,  
13 representations, and promises. Specifically, HILSENATH and KLARMAN caused  
14 USWC to issue cash payments, stock options, and stock shares to certain offshore shell  
15 corporations, which they controlled and owned.

16 5. The shell corporations include Telecom Associates Limited, Aida Holdings  
17 Limited (formerly Borazon Limited), KS Legal Consultants Limited (formerly Biskara  
18 Limited), Silicon Valley Investment Partners ("SVIP"), Craiglands Limited (formerly IDS  
19 Telecom Investment Group), and MSD Investment Advisors, Inc. (formerly Eldoret  
20 Limited). All of the listed shell corporations were incorporated by Matheson Trust Co.  
21 (Jersey) Limited, in the British Virgin Islands and managed by Matheson Trust in the  
22 Channel Islands (United Kingdom).

23 6. HILSENATH was the beneficial owner of Telecom Associates and  
24 Aida/Borazon. KLARMAN was the beneficial owner of or otherwise controlled KS  
25 Legal/Biskara, SVIP, Craiglands/IDS, and MSD Investment Advisors/Eldoret.

26 7. HILSENATH and KLARMAN caused the shell corporations to receive  
27 USWC's cash payments by wire transfer, in exchange for no consideration. The wire  
28 transfers were authorized without approval or knowledge by USWC's Board of Directors

1 or any other corporate body or officer empowered to authorize the wire transfers.

2 8. In or about and between August 1997 and January 2000, HILSENATH caused  
3 USWC to make monthly \$12,000 payments, totaling \$348,000, to his offshore shell  
4 corporation, Telecom Associates, for no consideration.

5 9. The only agreement involving Telecom Associates is an unsigned Consulting  
6 Agreement, dated June 1, 1997, that purports to be between Telecom Associates and  
7 HILSENATH. The Agreement provides that HILSENATH will perform services for  
8 Telecom Associates such as introducing potential customers, "facilitating relationships,"  
9 and "providing investment and business consulting and advisory services." The  
10 Agreement also states: "It is specifically understood that Consultant [HILSENATH] is  
11 not required to expend any specific number of hours in connection with such services."  
12 The Agreement further provides that Telecom Associates will pay HILSENATH "fees  
13 as shall be negotiated from time to time by the parties." There is no provision for USWC  
14 to pay Telecom Associates monthly \$12,000 fees, nor did Telecom Associates perform  
15 any services in exchange for these fees.

16 10. In or about and between September 1998 and January 2000, HILSENATH  
17 and KLARMAN caused USWC to make monthly \$5,000 payments, totaling \$85,000, to  
18 KLARMAN's offshore shell corporation, KS Legal/Biskara, for no consideration.

19 11. An August 1, 1998, Consulting Agreement between KS Legal and USWC,  
20 signed by KLARMAN, provides that KS Legal will perform such services as preparing  
21 legal documents and "facilitating relationships." It also provides: "It is specifically  
22 understood that Consultant is not required to expend any specific number of hours in  
23 connection with such services." The Agreement further provides that USWC shall pay  
24 KS Legal "a monthly retainer fee of \$5000 . . . for all legal services performed." KS  
25 Legal never performed any services in exchange for these monthly payments.

26 12. HILSENATH and KLARMAN caused the shell corporations to receive the  
27 stock options and shares, also without Board of Directors approval or knowledge, and  
28 without adequate consideration. Some of the shell corporations received the stock

options without having an option agreement.

13. HILSENATH and KLARMAN then caused the shell corporations to sell the stock they had received through the unauthorized transfers of shares and stock options, and to transfer the proceeds to themselves, family members, and third parties.

14. It was part of the scheme to defraud that HILSENATH and KLARMAN made and caused to be made material false statements to the Securities and Exchange Commission (“SEC”) in order to cover up and conceal from the SEC, other officers and directors of USWC, and shareholders of USWC, their misappropriation of USWC shares and monies.

COUNT ONE: 15 U.S.C. § 78ff (False SEC Filing for Year Ended March 31, 1998)

15. Paragraphs 1 through 14 are realleged as if fully set forth in this Count.

16. On or about July 14, 1998, within the Northern District of California and elsewhere, the defendants,

OLIVER HILSENATH and  
DAVID KLARMAN,  
did knowingly and willfully make, and cause to be made, statements in a document required to be filed under the Securities and Exchange Act of 1934, specifically, in a Form 10-KSB filed with the SEC for the period ended March 31, 1998, which statements were false and misleading with respect to material facts.

17. Specifically, the Form 10-KSB (a) falsely stated the amount of HILSENATH’s beneficial ownership of USWC stock by omitting his beneficial ownership through Aida/Borazon; (b) failed to include Telecom Associates’ Consulting Agreement as a “Related Party Transaction;” and (c) omitted the fact that USWC issued stock options to Biskara/KS Legal, which performed no services for the Company, thereby rendering misleading the statement that USWC issued stock options “to various consultants performing services for the Company.”

All in violation of Title 15, United States Code, Section 78ff and Title 18, United States Code, Section 2.

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2 COUNT TWO: 15 U.S.C. § 78ff (False SEC Filing for Year Ended March 31, 1999)

3 18. Paragraphs 1 through 14 are realleged as if fully set forth in this Count.

4 19. On or about June 29, 1999, within the Northern District of California and  
5 elsewhere, the defendants,

6 OLIVER HILSENATH and  
7 DAVID KLARMAN,  
8 did knowingly and willfully make, and cause to be made, statements in a document  
9 required to be filed under the Securities and Exchange Act of 1934, specifically, in a  
10 Form 10-KSB filed with the SEC for the period ended March 31, 1999, which statements  
11 were false and misleading with respect to material facts.

12 20. Specifically, the Form 10-KSB (a) falsely stated the amount of  
13 HILSENATH's beneficial ownership of USWC stock by omitting the fact of his  
14 beneficial ownership of USWC shares through his ownership and control of  
15 Aida/Borazon; and (b) omitted the facts of Telecom Associates' and KS Legal's  
16 Consulting Agreements as "Related Party Transactions."

17 All in violation of Title 15, United States Code, Section 78ff and Title 18, United  
18 States Code, Section 2.

19 COUNT THREE: 15 U.S.C. § 78ff (False SEC Filing for Year Ended March 31, 2000)

20 21. Paragraphs 1 through 14 are realleged as if fully set forth in this Count.

21 22. On or about June 29, 2000, within the Northern District of California and  
22 elsewhere, the defendants,

23 OLIVER HILSENATH and  
24 DAVID KLARMAN,  
25 did knowingly and willfully make, and cause to be made, statements in a document  
26 required to be filed under the Securities and Exchange Act of 1934, specifically, in a  
27 Form 10-KSB filed with the SEC for the period ended March 31, 2000, which statements  
28 were false and misleading with respect to material facts.

23. Specifically, the Form 10-KSB (a) falsely stated the amount of KLARMAN's

beneficial ownership of USWC stock by omitting the fact of his beneficial ownership of USWC shares through his control and ownership of Biskara/KS Legal, Craiglands/IDS, SVIP, and MSD/Eldoret; (b) falsely and misleadingly stated that USWC “awarded 149,425 shares to a private placement agent” in connection with a preferred stock issuance, when in fact the shares were issued to Craiglands/IDS for no consideration; and (c) omitted the facts of Telecom Associates’ and KS Legal’s Consulting Agreements as “Related Party Transactions.”

All in violation of Title 15, United States Code, Section 78ff and Title 18, United States Code, Section 2.

COUNTS FOUR through TWENTY: 18 U.S.C. §§ 1343, 1346, and 2 (Wire Fraud; Aiding, Abetting, and Willfully Causing)

24. Paragraphs 1 through 14 are realleged as if fully set forth in this Count.

25. On or about the following dates, within the Northern District of California and elsewhere, for the purpose of executing a scheme and artifice to defraud, to obtain money and property, and to deprive USWC of the intangible right to honest services, defendant

OLIVER HILSENATH

did knowingly cause the following wire communications in interstate and foreign commerce:

<u>Count</u>	<u>Date</u>	<u>Point of Origin</u>	<u>Point of Receipt</u>	<u>Communication</u>
4	8/3/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
5	9/1/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
6	10/1/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank

7	11/2/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
8	11/30/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
9	12/30/98	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
10	1/29/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
11	3/2/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
12	4/7/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
13	5/11/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
14	6/7/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
15	7/12/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
16	8/3/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
17	9/9/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank

18	10/12/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
19	11/2/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank
20	12/7/99	Menlo Park, CA	New York, NY	\$12,000 wire from Merrill Lynch to the Chase Manhattan Bank

All in violation of Title 18, United States Code, Sections 1343, 1346 and 2.

COUNTS TWENTY-ONE through THIRTY-SIX: 18 U.S.C. §§ 1343, 1346, and 2 (Wire Fraud; Aiding, Abetting, and Willfully Causing)

26. Paragraphs 1 through 14 are realleged as if fully set forth in this Count.

27. On or about the following dates, within the Northern District of California and elsewhere, for the purpose of executing a scheme and artifice to defraud, to obtain money and property, and to deprive USWC of the intangible right to honest services, the defendants,

OLIVER HILSENATH and  
DAVID KLARMAN,

did knowingly cause the following wire communications in interstate and foreign commerce:

<u>Count</u>	<u>Date</u>	<u>Point of Origin</u>	<u>Point of Receipt</u>	<u>Communication</u>
21	9/1/98	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank
22	10/1/98	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.



23	11/2/98	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
24	12/2/98	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
25	12/30/98	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
26	1/29/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
27	3/2/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
28	4/7/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
29	5/11/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
30	6/7/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
31	7/7/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
32	8/3/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
33	9/9/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
34	10/12/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
35	11/2/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.
36	12/7/99	Menlo Park, CA	New York, NY	\$5,000 wire from Merrill Lynch to Citibank.

All in violation of Title 18, United States Code, Sections 1343, 1346 and 2.

DATED:

A TRUE BILL

\_\_\_\_\_  
FOREPERSON

KEVIN V. RYAN  
United States Attorney

\_\_\_\_\_  
CHARLES B. BURCH  
Chief, Criminal Division

(Approved as to form: \_\_\_\_\_)  
AUSA Hartley M. K. West